

App. No. 10/522,045  
Advisory Action mailed January 18, 2008

### REMARKS

Favorable reconsideration is respectfully requested in view of the above amendments and following remarks. Claim 1 has been amended. The limitation in claim 1 concerning a planar filter supported so as to divide the tube into an upper space and a lower space is supported by, for example, page 5, line 36 to page 6, line 2 and Figure 1. The limitation in claim 1 concerning the step of centrifuging the tube so that the collecting solution containing the microorganism or the cell (i) separates from the water-absorbing resin particles by passing through the filter and (ii) accumulates at a bottom of the centrifuge tube is supported by, for example, page 6, line 29 to page 7, line 5 and Figure 2. Claim 26 is new, and is supported by, for example, page 6, lines 4-10. No new matter has been added. Claims 1, 4-12 and 14-26 are pending.

Claims 1, 6-8, 10, 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US Publication No. 2001/0009759) in view of Calomiris (US Patent No. 6010869). Applicants respectfully traverse the rejection.

Claim 1 requires a method of collecting microorganisms or cells involving a planar filter supported so as to divide the tube into an upper space and a lower space. Claim 1 further requires the step of centrifuging the tube so that the collecting solution containing the microorganism or the cell (i) separates from the water-absorbing resin particles by passing through the filter and (ii) accumulates at a bottom of the centrifugation tube.

Sato teaches centrifuging to separate the virus-binding particles which have viruses adsorbed thereon from the liquid sample by centrifugation. However, Sato does not teach or even suggest centrifuging to separate the collecting solution containing the microorganism from the virus-binding particles. Sato also does not teach or even suggest a method involving the

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planar filter as required by claim 1. Therefore, claim 1 and the dependent claims therefrom are patentable over Sato.

Calomiris does not cure the deficiencies of Sato. More particularly, the separation method of Calomiris involves a separation column, which is a tube filled with an aqueous solution that gradually increases in concentration of solute with depth. As such, the separation column of Calomiris does not correspond to the planar filter supported so as to divide the tube into an upper space and a lower space as required by claim 1. Moreover, Calomiris teaches centrifuging the tube so that the column traps the microorganism or cell in the top layer of the centrifugation tube and the microorganism or cell is recovered from the top layer in the centrifuge tube. As such, Calomiris' isolation method is actually opposite to what is required by claim 1. That is, claim 1 requires the step of centrifuging the tube so that the collecting solution containing the microorganism or cell (i) passes through the filter and (ii) accumulates at the bottom of the tube. Accordingly, even if Calomiris and Sato are combined, the references would still fail to meet claim 1 and the dependent claims therefrom.

Claims 5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Calomiris as applied to claim 1 above and in further view of Wardlaw (US Publication No. 2001/0033808). Applicants respectfully traverse the rejection.

Sato and Calomiris have been distinguished above. Wardlaw does not remedy the deficiencies of Sato and Calomiris. Claims 5 and 11-12 further limit claim 1. Therefore, claims 5 and 11-12 are patentable over the references for at least the same reasons mentioned above. Applicants do not concede the correctness of the rejection.

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Claims 9 and 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Calomiris as applied to claims 1, 8 and 14 above and in further view of Britschgi et al. (US Patent No. 5,726,021). Applicants respectfully traverse the rejection.

Sato and Calomiris have been distinguished above. Britschgi does not remedy the deficiencies of Sato and Calomiris. Claims 9 and 16-24 further limit claim 1. Therefore, claims 9 and 16-24 are patentable over the references for at least the same reasons mentioned above. Applicants do not concede the correctness of the rejection.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Calomiris as applied to claims 1 and 14 above and in further view of Krupey (US Patent No. 5,658,779). Applicants respectfully traverse the rejection.

Sato and Calomiris have been distinguished above. Krupey does not remedy the deficiencies of Sato and Calomiris. Claim 15 further limits claim 1. Therefore, claim 15 is patentable over the references for at least the same reasons mentioned above. Applicants do not concede the correctness of the rejection.

In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.



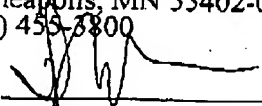
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Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &  
LARSON, P.C.  
P.O. Box 2902  
Minneapolis, MN 55402-0902  
(612) 455-3800

By:

  
Douglas P. Mueller  
Reg. No. 30,300